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PS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/883,557	06/26/97	ALBERT H	ALBERT-6-6-5

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LM01/0803

EXAMINER

ZIMMERMAN, B

ART UNIT

PAPER NUMBER

2735

17

DATE MAILED: 08/03/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/883,557**

Applicant(s)  
**Albert**

Examiner  
**Brian Zimmerman**

Group Art Unit  
**2735**



☒ Responsive to communication(s) filed on Jun 26, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 13-49 and 61-68 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 13-49 and 61-68 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

**ART REJECTION**

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

5 (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 13-15,20,28-30,43-45,48,49,60,61-65 are rejected under 35

10 U.S.C. 102(b) as being clearly anticipated by Busch (5408513).

Busch shows a financial transaction device 110 connected to a wireless adaptor 112 to convert data to a different format. Busch also shows a first wireless modem 124 which sends data over a wireless media (antenna on element 124). The data is received at a "host" which includes another (or second modem) and first communication means to communicate to a computer and authorization processor. The adaptor includes an audio frequency modem 126 as claimed.

3. Claims 16-27,31-42,46,47 are rejected under 35 U.S.C. § 103 as being unpatentable over Busch as applied to claims 13,28,43 above, and further in view of common knowledge in the art. The examiner takes official notice that the devices claimed (claims 16,17,31,32,46,47) are well known devices equivalent to the devices taught by Rogge. The examiner takes official notice that the networks claimed (claims 19-27,34-42) are well know networks equivalent to the networks taught by Rogge.

Furthermore, the extent of disclosure the applicant provides is evidence of the fact that the applicant believes that the types of network (or types of device) are known to the artisan. The applicant has not invented these specific networks (or devices).

Regarding claims 18,33, the references, discussed above, discloses the claimed

5 invention except for having the claimed elements in a single computer system. It would have been obvious to one having ordinary skill in the art at the time the invention was made to place all these elements in a single computer, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S.

10 164 (1893). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized any of the claimed networks (or devices) in the above modified system since that would have been equivalents to the elements used in the above modified system.

15 4. Claims 66-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Busch as applied to claims 13,18,28 above, and further in view of Buffered.

In an analogous art, Buffered discloses a method and apparatus for transmitting communication information for wireless systems that includes a data compression circuit to compress digital data where the communication processor compresses digital  
20 dat to the wireless modem via the transmission media and communication means.

Buffered further discloses a data encryption circuit to encrypt digital data and the

processor encrypts digital data to the wireless modem via the transmission media and communication means. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a compression and encryption circuit(s) for providing secure communication of financial data between the transaction device and the host in the above modified system.

### **DOUBLE PATENTING REJECTION**

claims 12-49,61-68 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-12 of copending Application No. 08/647362. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: a wireless transaction device with an audio modem.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Although a restriction has been made in the parent application the claims in this

application do not explicitly fall into one of the groups set forth in said restriction.

Therefore, a restriction is proper in this instance.

**OTHER PRIOR ART CITED**

5                   The prior art made of record and not relied upon is considered pertinent  
to applicant's disclosure.

**CONTACT INFORMATION**

10                   Any inquiry concerning this communication or earlier communications  
from the examiner should be directed to Brian Zimmerman whose telephone number is  
(703) 305-4796.

Any inquiry of a general nature or relating to the status of this application should  
be directed to the Group receptionist whose telephone number is (703) 305-3900.

15                     
Brian Zimmerman  
Patent Examiner  
Art Unit 2735

20                   703-305-4796  
July 30, 1998